

**For:** State and County Offices

**New Provisions Applicable to Upland Cotton LDP's Based on Locked-in Rate**

**Approved by:** Deputy Administrator, Farm Programs



**1 Overview**

**A**

**Background**

Based on recommendations of State specialists and a review of program payments administered by CMA's, some new provisions for administering upland cotton LDP's based on a locked-in rate are applicable to 2002 and subsequent crop applications.

CCC will establish new automation procedures that will provide CMA's, LSA's, and County Offices improved records and program controls. This revised software will not be available for 2002 crop applications.

In the meantime, some new manual requirements are established to improve the integrity of this LDP option for the 2002 crop.

**B**

**Purpose**

This notice:

- clarifies application requirements for 2002 and subsequent crop LDP applications based on a locked-in rate
- limits LDP's based on a locked-in rate to a maximum of 20 bales per module
- establishes procedures for assessing liquidated damages to 2002 and subsequent crop LDP applications, based on a locked-in rate, for which production evidence is not submitted.

**Disposal Date**

June 1, 2003

**Distribution**

State Offices, State Office relay to County Offices, LSA's, CMA's, and Cotton Clerks

## 2 Application Requirements for LDP Rate Lock-in

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### A

#### Application Requirements

Applications for 2002 crop LDP's based on a locked-in rate, whether submitted at a County Office, or by CMA or LSA through the Automated Cotton Reporting System (ACRS), must comply with all of the following requirements.

- All LDP applications based on a locked-in rate are irrevocable by the applicant. These applications cannot be cancelled, amended, or withdrawn.
  - Applicants must identify the unginned cotton for which the locked-in LDP rate is requested by submitting a module (or other storage unit) number for each individual unit of storage. After this cotton is ginned, the bales produced from each locked-in unit (production evidence) must be identified to CCC by the corresponding module number.
  - Modules are the largest storage unit eligible for identification and must be identified and distinguished from one another by discrete numbers.
  - Applications are valid only if the LDP applicant has beneficial interest in the cotton **when the LDP is initially requested**.
  - Any application for which production evidence is not provided is a **violation subject to liquidated damages**.
  - LDP's provided by County Offices or through ACRS shall be for production up to and including a **maximum of 20 bales per module** or, for County Offices, the maximum established by STC according to subparagraph 4 A. Bales exceeding this maximum may receive the locked-in rate only if a higher maximum is successfully appealed to STC, or in the case of CMA and LSA applications, approved by DAFP.
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### B

#### Alternative LDP Application Options

Cotton that cannot be identified according to subparagraph 2 A **is ineligible** for the LDP lock-in rate option. Following are alternative application methods:

- CCC-709 that provides an LDP rate based on the date of ginning
  - CCC-Cotton AA for ginned cotton, with the LDP rate based on the date a completed application is received
  - for CMA's and LSA's, ACRS procedures in 21-CN that provide an LDP rate based on the date of ginning or application.
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### 3 Assessing Liquidated Damages to Certain Application Violations

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#### A

##### **Applications Subject to Liquidated Damages**

Liquidated damages shall apply to each storage unit of an LDP applications based on a locked-in rate for which no production evidence is submitted for 1 or more modules by the May 31 deadline for LDP applications.

**Note:** COC may void applications, and thereby not apply liquidated damages, if COC determines that these modules were destroyed by weather, natural disaster, fire, or similar circumstances beyond the producer's control.

Liquidated damages shall be calculated equal to the requested LDP rate (cents per pound), multiplied by the number of modules, multiplied by 15 bales per module, multiplied by 490 pounds per bale, multiplied by a percentage factor that is either:

- 10 percent for the first offense (first module) of an application and 25 percent for the second offence, if COC determines the producer acted in good faith when the violation occurred
- 25 percent for the first or second offense, if COC determines the producer did not act in good faith when the violation occurred.

For purposes of calculating liquidated damages to these violations, the second violation is defined as both of the following:

- the second and subsequent modules of the first application
  - all modules of subsequent applications.
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### 4 State and County Office Action

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#### A

##### **State Office Action**

STC may request DAFP approval of a different maximum number of bales per storage unit for their State (either higher or lower than the 20 bale maximum) consistent with locally-used field storage equipment.

STC may approve LDP payments based on a locked-in rate for bales that exceed the established maximum number of bales per module on a case-by-case basis.

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#### 4 State and County Office Action (Continued)

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##### B

##### County Office Processing of Approved Bales

For LDP's requested based on locked-in rates, County Offices shall:

- ensure that the applicant completes CCC-Cotton AA, dated 9-9-02, that contains in Part A, item 6, producer certification about production evidence and application of liquidated damages

**Note:** Earlier versions of CCC-Cotton AA may be used if the following statement is added and initialed by the applicant:

“The Producer agrees to submit gin-provided documentation identifying the bales produced from the module/storage unit for which the AWP lock-in applies, and to pay liquidated damages for applications based on a locked-in rate not supported by bale-identifying information.”

- inform all applicants that liquidated damages will be assessed to applications for:
  - cotton determined by CCC to not have been harvested at the time of the application
  - which production evidence is not submitted
- date-stamp all bale information when received
- process applications based on the actual quantity of cotton, but not to exceed the maximum level per module (taking the bales in the sequence identified on the submitted list)
- for bales exceeding the maximum level per module:
  - provide LDP based on:
    - the rate prevailing on the date the bale information was submitted
    - the locked-in rate for excessive bales, if approved by STC, according to subparagraph C
  - forward to STC any producer appeals of LDP's requested based on a locked-in rate, but not paid on bale quantities exceeding the approved maximum.

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**4 State and County Office Action (Continued)**

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**C**

**County Office  
Processing of  
Excessive Bales**

Bales that are submitted for LDP based on a locked-in rate, but that exceed the maximum number approved for payment, are referred to as excessive bales and shall receive LDP based on the following process.

Subparagraph B provides that bales exceeding the approved maximum level are to be paid at the:

- rate prevailing on the date the bale information was submitted
- locked-in rate for excessive bales if approved by STC.

County Office shall:

- identify for producers the excessive bales submitted under the request for a locked-in rate
- notify producer of the option to appeal to STC the payment rate on the excessive bales
- if the excessive bales are:
  - successfully appealed to STC for the locked-in rate, use the original CCC-Cotton AA as the basis for providing LDP based on the locked-in rate
  - not appealed to STC for the locked-in rate, or appealed but denied the locked-in rate under the appeal, have producer submit a separate CCC-Cotton AA and provide LDP based on the payment rate effective on the date the production evidence containing the excessive bales was submitted. (Amendments to 7-CN are forthcoming.)

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#### 4 State and County Office Action (Continued)

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##### **D**

##### **Processing Liquidated Damages**

As soon as a violation can be determined, but not later than June 30 (following the May 31 LDP application deadline) for the crop year, assess liquidated damages to all applications for which production evidence was not submitted.

The responsibility to pay liquidated damages is jointly shared by all applicants who signed the LDP application. Establish a receivable for liquidated damages according to 67-FI using the following information:

- for the first charge program code on Screen AQK10801, ENTER "LIDAUPCN" and the amount of liquidated damages
- for the first reference number, enter the farm number
- for the type, ENTER "FM"
- for the receivable due date, enter the current system date
- for the basis of debt code, ENTER "10306".

County Office shall:

- issue automated notification letter generated when receivable was created, including an explanation that debt occurred because of "failure to provide production evidence for an irrevocable LDP lock-in rate on module"
  - issue the first demand letter, if debt remains unpaid 30 calendar days after the date of the notification letter
  - establish a claim according to 64-FI, if debt remains unpaid 30 calendar days after the date of the first demand letter.
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## Notice CN-943

### 5 APD Staff Action

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#### A

##### **Processing LDP Applications Based on Locked-in Rates**

APD staff shall process all LDP applications consistent with the application requirements of subparagraph 2 A.

All LDP's based on locked-in rates requested through ACRS are subject to the 20-bale maximum per module unless a different amount is approved by DAFP on a case-by-case basis.

After the LDP availability deadline (May 31), APD shall calculate and forward to PSD for collection, all liquidated damages according to subparagraph 3 A.

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### 6 CMA and LSA Action

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#### A

##### **Beneficial Interest Determination**

CMA's shall ensure that they have beneficial interest in any cotton at the time any LDP for the cotton is requested.

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#### B

##### **ACRS Procedures**

All production evidence from one module LDP lock-in rate must be transmitted to ACRS in the same batch and transmission.

CMA and LSA applications shall be subject to a limit of 20 bales per module.

ACRS software will process bale detail transmissions and issue an authorization code for the total requested payment even if the number of bales exceeds the established maximum number of bales per module. If more than the established maximum number of bales are submitted for a module, ACRS will generate an error report identifying the excess bales to be corrected. The bales in this error report may be in a different order than originally submitted by CMA or LSA.

The bales identified as errors by the ACRS update order shall be the bales for correction rather than bales according to their order listed by CMA or LSA in the original LDP transmission.

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## 6 CMA and LSA Action

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### C

#### **Correcting Benefits on Excess Bales**

Bales submitted in excess of the established maximum number of bales per module limit and identified by ACRS for correction shall be corrected according to this subparagraph. Bales that exceed the established maximum per module that are otherwise eligible for LDP:

- are ineligible to receive the locked-in rate applicable to the original CMA/LSA LDP transmission
- are ineligible to be pledged as collateral for a loan
- shall be provided LDP based on the rate effective on the date of the original LDP transmission.

CMA's and LSA's shall correct the LDP rate on any excessive bales by submitting a correction file to ACRS that does both of the following:

- modifies the Module Number [29] for the excess bales with blank spaces
  - recalculates the bale value at the AWP rate effective on the date of the original LDP transmission.
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